

VZCZCXRO3018
RR RUEHRG
DE RUEHBR #0855/01 1771637
ZNR UUUUU ZZH
R 251637Z JUN 08
FM AMEMBASSY BRASILIA
TO RUEHC/SECSTATE WASHDC 1933
INFO RUEHRG/AMCONSUL RECIFE 8170
RUEHSO/AMCONSUL SAO PAULO 2267
RUEHRI/AMCONSUL RIO DE JANEIRO 6297
RUEHBU/AMEMBASSY BUENOS AIRES 5599
RUEHMN/AMEMBASSY MONTEVIDEO 7405
RUEHAC/AMEMBASSY ASUNCION 6875
RUEHSG/AMEMBASSY SANTIAGO 0394
RHEHNSC/NSC WASHDC
RUEAIIA/CIA WASHDC

UNCLAS SECTION 01 OF 04 BRASILIA 000855

SIPDIS
SENSITIVE

E.O. 12958: N/A

TAGS: [PGOV](#) [KCOR](#) [KJUS](#) [KCRM](#) [KDEM](#) [EAIR](#) [BR](#)

SUBJECT: Brazil: Do All the Corruption Scandals Matter?

REF: A) Brasilia 41, B) Brasilia 207, C) Brasilia 286, D) Brasilia 674, E) 07 Brasilia 921, F) 07 Brasilia 1670, G) Sao Paulo 292, H) Brasilia 196

1. (SBU) Summary. Fresh scandal news appears daily in major newspapers, and there are now investigations into at least seven major corruption scandals involving politicians. Experience suggests courts and congressional inquiries will mete out little or no punishment. The constant parade of corruption scandals involving government officials and politicians, often ending in impunity, results from factors that perpetuate the status quo, including weak institutions, the special status of politicians, and voter behavior. Nonetheless, public and media indignation are beginning to generate pressure for greater government accountability, as public opinion increasingly finds unethical behaviors intolerable. While scandals do not matter much in day to day politics, they are harmful to Brazil's consolidation of democracy because they erode confidence in democratic institutions and the rule of law among youth, who have no memory of the military dictatorship. While citizens must hold authorities accountable for their actions, substantial progress against corruption also will require going beyond the ad hoc measures that are fitfully implemented by the government to a serious effort to strengthen democratic and judicial institutions. There are no signs that such an overhaul will happen soon. End summary.

Corruption and Impunity: The Numbers Tell the Story

2. (U) According to leading newsweekly Veja, 31 (38 percent) of Brazil's 81 senators, and 185 (36 percent) of the 513 federal deputies are currently accused of "serious crimes" or have already been convicted. The most common charges are buying votes, using prohibited campaign advertising, and misappropriating public funds. The newsweekly Epoca recently reported that of the 3,712 people arrested by the Federal Police on corruption-related charges in the 2003-2006 period, 1,098 were public officials. Of these, only 432 (about 11 percent), were convicted. Of those, only 265 (7 percent of the total) actually ended up in prison.

...While Current Cases Provide the Headlines

3. (SBU) Following is a list of the major ongoing scandals making headlines on an almost daily basis in major Brazilian newspapers.

--Government Credit Card Scandal: A joint Congressional Committee of Inquiry (CPI) into alleged abuses of government-issued credit cards in the Lula Administration (refs B, C, and D) issued a report on June 4 that declared the Presidential Palace had not compiled

incriminating data on credit card abuses during the Cardoso Administration (1995-2002) and it held no one accountable for the Lula Administration credit card abuses, which it dismissed as mere errors of judgment. Federal Deputy Luiz Sergio (Workers' Party, the lead party in the government coalition; of Rio de Janeiro) wrote the report, which completely exculpated Minister Dilma Rousseff, head of the Civilian Household (presidential chief of staff equivalent). The opposition had accused her of involvement in the creation and leaking of a "dossier" to embarrass and neutralize the opposition by showing similar government credit card "abuses" in the Cardoso Administration.

--Varig and VarigLog Scandal: In recent weeks a second scandal has emerged involving Dilma Rousseff. A former director of National Civil Aviation Agency (ANAC) has accused Rousseff of improperly using her influence to pressure ANAC to accept a bid from Gol Airlines to buy Varig Airlines, even though TAM, a competitor, bid higher. This allegedly occurred because Gol's lawyer, Roberto Teixeira, is close to President Lula. Rousseff is also accused of pressuring ANAC to exempt a Brazilian group, operating as a front for the American firm Matlin Patterson, from mandatory financial checks in the purchase of the VarigLog air cargo service. Under Brazilian law a foreign firm may not own more than 20% of a Brazilian airline, and Rousseff's actions, which led to Matlin Patterson's ownership of VarigLog, may have been improper or illegal. On June 18, media reported that in December 2006, ANAC's legal expert determined that the sale of VarigLog was actually in violation of regulations. Although the sale had been authorized six months earlier, ANAC apparently took no action to reverse it.

--Operation Razorblade Scandal: On May 13, 2008, the Federal

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Prosecutor's Office formally charged 61 people for numerous crimes, including public corruption and crimes against the financial system in connection with Operation Navalha (ref E), or razorblade, a fraud scheme in which politicians, businessmen, public servants, and others defrauded the government on public works contracts or took kickbacks or bribes. Former Minister of Energy Silas Rondeau, who resigned under fire last year, is accused of receiving R\$ 100,000 (USD 60,000) from the Gautama construction firm. Also charged are Jackson Lago, governor of Maranhao, Teotonio Vilela, governor of Alagoas, and Joao Alves Filho and Jose Reinaldo, former governors of Sergipe and Maranhao. Gautama is accused of defrauding the largest amounts, R\$ 300 million (USD 180 million), from public funds. The case is before the Superior Court of Justice (STJ).

--National Development Bank Scandal: Federal Deputy Paulo "Paulinho" Pereira da Silva (Democratic Labor Party, PDT, government coalition; of Sao Paulo) and Carlos Lupi, Minister of Labor and president of the PDT (on leave) are implicated in a scandal involving diversion of funds from the National Bank for Economic and Social Development (BNDES). As president of the Forca Sindical union, Paulinho is closely identified with the interests of organized labor, and he is said to have had the pull to install Lupi as Labor Minister. They are accused of facilitating loans to several companies in exchange for a cut for themselves. This developing scandal will also end up in the STJ. Per ref G, Paulinho is also facing an investigation by the Chamber of Deputies' Ethics Council that could lead to his expulsion and loss of political rights.

-- SUDAM Scandal, Alstom/Eletronorte Scandal: Federal Deputy Jader Barbalho (Brazilian Democratic Movement Party, PMDB, a non-ideological party in the government coalition; of Para state) is also in trouble. According to prosecutors, Barbalho influenced the now-defunct SUDAM (Amazon Development Company), a state firm, to sign a contract in 1998 with Imperador, a private company, and in exchange received 20% of the value of the contract. The case is before the Federal Court and the Court has seized all of Barbalho's assets. Federal Police have accused Senator Valdir Raupp (PMDB, of Roraima), leader of PMDB in the Senate, of receiving money for intermediating a business deal between the French company Alstom and the paristatal Eletronorte. The police asked the STJ for authorization to investigate further Raupp's alleged involvement.

--Zeca do PT Scandal: "Zeca do PT," whose real name is Jose Orcirio

Miranda dos Santos, former federal deputy and two-term governor of Mato Grosso do Sul, is accused by prosecutors of receiving more than R\$ 30 million (USD \$18 million) from the public administration to pay off people in the state to support his administration while governor from 1999 to 2007.

--Alvaro Lins Scandal: Alvaro Lins, a state deputy and the former chief of Rio de Janeiro state Civil Police, was recently arrested and charged with illegal gang activity which included using his former office for extortion and money laundering. According to the Federal Police, Lins and other Rio state government officials (former Governor Anthony Garotinho was also implicated) "sold" high level police jobs in exchange for payments of around USD 10,000 per month. These jobs were turned into cash cows by extorting companies vulnerable to prosecution for environmental crimes. The state Legislative Assembly voted to release Lins, but a decision is still pending on whether to impeach him from his legislative seat. No state legislators want to lead the impeachment proceedings, which opens the question of whether he has incriminating information about members of the assembly or whether they fear police retribution.

--Operation Megabyte: In early June, Federal Police discovered a scheme of fraudulent contracts for technology products and services between the Government of the Federal District (GDF) and seven firms from 2002 to 2007, with losses to public funds estimated at 720 million dollars. Authorities ordered the seizure of boats, luxury cars, jewels, companies, banks accounts, and real estate, but no one has yet been arrested. The suspected architect of the scheme is the GDF's Secretary of Institutional Relations, a former civil police investigator who reportedly once used illegal wiretaps to blackmail enemies and fortify a corrupt cadre of as many as 80 other investigators in the Federal District civil police.

--Operation Ovenbird: On June 20, Federal Police carried out an operation against an alleged conspiracy by construction contractors and federal and municipal officials, including two federal deputies, who police believe defrauded the federal government of 1.2 billion dollars in funds from the Accelerated Growth Program (PAC), a major public works initiative of President Lula's second term (ref H). Federal Police deployed 1000 agents to carry out 38 arrests and 230

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search and seizure actions in seven states and the Federal District, including 119 municipalities in Minas Gerais.

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The Sub-Text: Weak Institutions, Limited Reform Efforts
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14. (SBU) The pervasiveness of scandals involving government officials and the apparent lack of accountability result from several factors: a general weakness in the rule of law; a judiciary hampered by huge workloads; underfunding of key agencies; and political pressure on key decision-makers. Prosecutors do not always use all the tools at their disposal, such as undercover investigation, wiretaps, etc. Democratic institutions are inadequate for the task: for example, politicians are entitled to have their cases tried in "special fora" (high courts) and political parties may not prioritize ethics in their choice of candidates to put forward, which can result in the election of corrupt men and women. Corruption cases are a drag on the many institutions that investigate and prosecute them, and they distract the attention of lawmakers and others from other important business. But there are signs of ad hoc progress: on June 11, a special congressional committee passed a draft constitutional amendment to eliminate the "special forum" for authorities, and on June 19 a congressional working group decided to cull, consolidate, and propose the best of the many existing bills on electoral ineligibility. Also on June 19, the presidents of all of Brazil's 26 regional electoral courts voted unanimously - and against a 4-3 split decision this month by the Superior Electoral Tribunal (TSE) - to bar candidates with prior criminal convictions or pending criminal cases. The TSE had decided to allow such candidacies but encouraged parties to choose candidates carefully, and would have made the "dirty" names public.

15. (SBU) Scandal news is plentiful, but conviction news is scarce.

Politicians who have been indicted continue to go about their business, and cases can drag on for years. The Ministerio Publico, an independent federal prosecutorial body with extensive powers, is recognized as unusually free of corruption, although it often gets involved in investigations too late or fails to act at all. Sometimes the only investigating body is the legislative branch, usually acting through a CPI. Acquittal for lack of evidence or political motives is common, and even when a CPI does conclude that a crime was committed, it has no law enforcement or judicial powers.

Federal elected officials, and high-level executive and judicial officials, are entitled to have their cases tried in the Supreme Court (STF) or the Superior Court of Justice, but the former has never convicted anyone on a corruption charge. Politicians can postpone or escape judgment through delaying tactics in this special forum; in one recent case, the the defendant resigned from office before judgment was passed, removing the case from the special forum and sending it to a local court, where the process--and the delaying tactics--could start all over again (Ref A). The STF has a chance to break this dismal record with any of the 40 defendants in the "mensalao" congressional vote-buying scandal (ref F). For its part, the STJ has only managed convictions on five occasions.

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Comment: No Happy Ending in Sight
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16. (SBU) President Lula is untouched by these events, indeed he is more popular and influential than ever. The indictments last August in the mensalao case (ref F) offer some hope that the Supreme Court is ready to show the way, but even if courts begin to hand down convictions, many voters still fail to hold politicians accountable.

Federal Deputy Ciro Gomes (Brazilian Socialist Party, of Ceara) told PolCouns June 18 that the deeper significance of these endless reports of corruption is the effect on Brazil's young people, who have no memory of the military regime (1964-85), which combined hidden corruption with repression. Although Gomes holds the view shared by many Brazilians that the corruption scandals are evidence of a positive trend--the result of more professional media, greater transparency, and democratic principles at work--the youth are increasingly disillusioned with democratic institutions that seem to be hopelessly corrupt.

17. (SBU) Despite some positive signs, there is no concerted effort to address the systemic flaws that create an environment so conducive to corruption. The change in societal attitudes that encourages citizens to hold politicians and other authorities accountable for their actions has only begun. Moreover, substantial progress in the fight against corruption in Brazil will require going beyond today's ad hoc measures to more profound reforms that

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strengthen democratic and judicial institutions, including the judiciary, police, and executive branch accountability organs. We do not expect the Lula Administration to lead the way during its remaining two and a half years, and it is not clear that anyone else with influence is prepared to raise the standard.

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